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FURTHER REPORT OF THE SECRETARY-GENERAL ON RWANDA

INTRODUCTION

1. By its resolution 846 (1993) of 22 June 1993, the Security Council, inter alia, urged the Government of Rwanda and the Rwandese Patriotic Front (RPF) to conclude quickly a comprehensive peace agreement. It also requested the Secretary-General to report to the Council on the results of the Arusha peace talks as well as on the contribution the United Nations could make to assist the Organization of African Unity (OAU) in the implementation of the peace agreement and to begin contingency planning in the event that the Council decided such a contribution was needed.

2. The peace agreement between the Government of Rwanda and RPF was signed in Arusha on 4 August 1993 (see sect. II below).

3. It will be recalled that, in my interim report of 20 May 1993 (S/25810 and Add.1), I had indicated that I would submit a report to the Council on the goodwill mission that I had sent to the region from 2 to 19 March 1993, as well as on the outcome of the consultations that had been undertaken with OAU in pursuance of paragraph 2 of resolution 812 (1993), after the conclusion of the Arusha peace talks.

I. THE GOODWILL MISSION

4. Following consultations of the Security Council on 24 February 1993 on the situation in Rwanda, I decided to send a goodwill mission to Rwanda and Uganda to assist me in making recommendations to the Security Council on the peace process. On 22 February, the Governments of Rwanda and Uganda had called for the deployment of United Nations military observers along their common border (S/25355 and S/25356).

5. The goodwill mission, which was led by Mr. Macaire Pédanou, former Director in the Department of Political Affairs, visited the region from 4 to 19 March 1993. In addition to Rwanda and Uganda, the mission visited Dar-es-Salaam and Addis Ababa for consultations with the Facilitator and the Coordinator of the Arusha peace talks respectively.

6. The mission held consultations with the Government of Rwanda from 4 to 9 March 1993. It met, in Kigali, with President Habyarimana, the Prime Minister, the Minister for Foreign Affairs and Cooperation and the Minister of Defence. It also travelled to the region of Byumba in the northern part of the country, where it met with the representatives of RPF, and visited the Katuna border post with Uganda.

7. In Rwanda, the mission also visited two camps of displaced persons. It was informed that the population of the displaced persons in the country was estimated at 900,000. In discussions with the mission, the Rwandese parties urged the international community to provide the necessary assistance to ameliorate the plight of the displaced persons and to facilitate their return to their villages. Taking these developments into account, the Department of Humanitarian Affairs led an inter-agency mission to Rwanda from 18 to 25 March 1993 to prepare a consolidated appeal of US$ 78 million to meet the needs of 900,000 displaced persons from April to December 1993. The appeal was launched in Geneva on 15 April 1993.

8. During its visit to Rwanda, the goodwill mission also met with members of the OAU Neutral Military Observer Group (NMOG) which was monitoring and supervising the implementation of the cease-fire that had come into force in July 1992. The mission was informed that NMOG comprised 10 army officers each from Mali, Nigeria, Senegal and Zimbabwe, as well as 5 officers each from the Rwandese and the RPF armies. The discussions with senior officials of NMOG focused on cooperation between the United Nations and OAU, the role of an expanded NMOG and the assistance that it would require from the international community with respect to the mandate entrusted to it.

9. The mission exchanged views with the parties on the military situation, including the cease-fire, as well as on the respective roles they envisaged for the United Nations and OAU in the process. While the parties agreed on the need for deployment of an international force to assist in the implementation of the peace agreement and related transitional arrangements, they were not in complete agreement, at that time, on the roles of the United Nations and OAU.

10. On 7 March 1993, while the goodwill mission was still in Rwanda, the Government of Rwanda and RPF agreed in Dar-es-Salaam to cease hostilities starting on 9 March 1993 at midnight and to resume the peace talks in Arusha on 15 March 1993 (S/25385). On 12 March 1993, the Security Council adopted resolution 812 (1993), by which it welcomed my decision to send a goodwill mission to the region. The Council also invited me to examine, in consultation with OAU, the contribution that the United Nations could bring to strengthen the peace process in Rwanda, in support of its ongoing efforts. By the same resolution, the Security Council welcomed the Dar-es-Salaam agreement of 7 March 1993, and urged the Government of Rwanda and RPF to resume the negotiations on 15 March, as agreed.

11. The goodwill mission visited Kampala from 10 to 13 March 1993, and held consultations with President Museveni and with senior officials of his Government, within the framework of the Dar-es-Salaam agreement and Security Council resolution 812 (1993). It also met with the representatives of RPF in Kampala. President Museveni welcomed the Dar-es-Salaam agreement and confirmed his willingness to welcome observers on the Ugandan side of the border in order

to demonstrate that his country was not providing military assistance or personnel to RPF.

12. The goodwill mission then visited the United Republic of Tanzania from 13 to 15 March 1993. In Dar-es-Salaam, it met with President Mwinyi and senior officials of the Government who briefed them on the role of the United Republic of Tanzania as Facilitator of the Arusha peace process and confirmed that the peace talks would resume in Arusha on 15 March 1993.

13. During its visit to Addis Ababa, from 17 to 19 March 1993, the mission met with Mr. Salim Ahmed Salim, Secretary-General of OAU, to exchange views on cooperation between the United Nations and OAU, within the context of the Dar-es-Salaam agreement and Security Council resolution 812 (1993). Mr. Salim recalled that the parties to the Dar-es-Salaam agreement had asked him to extend the mandate of NMOG and to expand it. He informed the mission about the efforts he was making to that end and requested the assistance of the United Nations. Following exchanges of communications on this matter, I sent to Addis Ababa two senior officials with the necessary expertise to provide technical assistance to OAU to finalize a submission to the donor community for the funding of an expanded NMOG (see S/25810, para. 22).

14. As indicated in my interim report to the Security Council (S/25810), I sent a technical mission to Uganda and Rwanda, from 2 to 6 April 1993, which was led by my military adviser, Brigadier-General Maurice Baril to gather and evaluate all information relevant to the possible deployment of United Nations military observers on the Rwanda/Uganda border. The technical mission was joined in Uganda by Mr. Macaire Pédanou, the leader of the goodwill mission.

15. On 8 April 1993, I informed the Security Council that, taking into account developments concerning Rwanda, I had decided to strengthen the goodwill mission by the addition of three military advisers (S/25561).

II. THE ARUSHA PEACE TALKS

16. The Arusha peace talks, which resumed on 16 March 1993, were successfully concluded on 3 August 1993. The agenda for the negotiations covered military issues, refugees and displaced persons and outstanding political matters including the amendment of the Constitution, as well as the duration of the transitional period. On the military side, the negotiations focused on the composition and size of the new army, including the representation of the armed forces of the Government and those of RPF in the new army. Other issues covered arrangements related to security services including the gendarmerie, demobilization and assistance required from the international community. The two parties also discussed the establishment of an international neutral force for the implementation of the peace agreement.

17. I was represented at the Arusha peace talks in an observer capacity by Mr. Macaire Pédanou, the leader of the goodwill mission. Mr. Pédanou was later joined by a military officer from the Department of Peace-keeping Operations, who provided technical advice on the military aspects of the negotiations.

18. During the meeting of the Assembly of Heads of State and Government of OAU in Cairo in June, I had the opportunity to exchange views with the President of Rwanda and the Secretary-General of OAU on the situation in Rwanda and on the progress of the Arusha talks. We also discussed ways and means of assisting in the peace agreement, following its signature by the parties.

19. The Arusha peace agreement, including six protocols, was signed on 4 August 1993 by Major General Juvenal Habyarimana, President of Rwanda, and Colonel Alexis Kanyarengwe, Chairman of RPF. The signing ceremony took place in the presence of H.E. Mr. Ali Hassan Mwinyi, President of the United Republic of Tanzania, in his capacity as the Facilitator, Mr. Salim Ahmed Salim, Secretary-General of OAU and Mr. Vladimir Petrovsky, Under-Secretary-General and Director of the United Nations Office at Geneva, who represented me on that occasion. The signing ceremony was witnessed by the Presidents of Uganda and Burundi, the Prime Minister of Zaire, the representatives of the current and former Chairmen of OAU and of the observer countries to the Arusha talks, namely Belgium, Burundi, France, Germany, Nigeria, Uganda, the United States of America and Zimbabwe.

20. In signing the peace agreement, the two parties agreed that the war between them had come to an end and that they would spare no effort to promote national unity and reconciliation. They also agreed that all the six protocols of agreement which they had concluded and signed during the Arusha talks would be attached to the peace agreement, of which they would form an integral part. These documents are:

(a) The N'Sele cease-fire agreement of 29 March 1991, as amended in Gbadolite on 16 September and at Arusha on 12 July 1992;

(b) Protocol of Agreement on the rule of law, signed at Arusha on 18 September 1992, which defined the basic principles of Rwandese politics for the future, namely national unity, democracy, pluralism and respect for human rights;

(c) Protocols of agreement on power-sharing, signed at Arusha on 30 October 1992 and on 9 January 1993, by which the Government of Rwanda and RPF accepted the principle of sharing political power within the framework of a broad-based transitional Government with the participation of the main political parties;

(d) Protocol of agreement on the repatriation of refugees and the resettlement of displaced persons, signed at Arusha on 9 June 1993, which defined provisions for the repatriation and resettlement of refugees and displaced persons, as well as arrangements for a donors' conference to be jointly organized by OAU and the Office of the United Nations High Commissioner for Refugees (UNHCR);

(e) Protocol of agreement on the integration of the armed forces of the two parties, signed at Arusha on 3 August 1993, which covered, among other things, the size, composition and ratio of the two parties in the new army, as well as the establishment of a neutral international force to oversee the transitional arrangements;

(f) Protocol of agreement on miscellaneous issues and final provisions signed at Arusha on 3 August 1993 by which the parties reached agreement on the appointment of the Prime Minister and the transitional period, which was set at 22 months.

III. RECONNAISSANCE MISSION

21. In a communication addressed to me on 3 August 1993, President Habyarimana reiterated the request that the Government of Rwanda and RPF had jointly addressed to me on 11 June 1993 to send a reconnaissance mission to Rwanda in order to assess the needs of the proposed international force (S/25951).

22. As envisaged by the two parties, a neutral international force would be deployed in Rwanda to monitor and supervise the cease-fire; secure the continued distribution of humanitarian assistance; and assist in the protection of the expatriate community and in the implementation of the provisions of the peace agreement pertaining to the demobilization and encampment of the belligerent forces, their retraining and integration to form a new national army.

23. In communications I addressed on 11 August 1993, to President Juvenal Habyarimana of Rwanda and the Chairman of RPF, Colonel Alexis Kanyarengwe, I stressed that it was now incumbent on all concerned to observe strictly the provisions of the peace agreement in order to ensure its implementation and to allow the people of Rwanda to advance national reconciliation as well as the rehabilitation and the reconstruction of their country.

24. In a communication addressed to me on 4 August 1993, the Secretary-General of OAU informed me that the mandate of the OAU NMOG, which had been supervising the implementation of the cease-fire agreement signed in Arusha in July 1992, had expired on 31 July 1993. NMOG was being replaced by NMOG II, whose mandate had commenced on 3 August 1993 and whose first contingent had arrived in Rwanda on 31 July 1993. More contingents from several OAU member States were expected to arrive in Rwanda as part of the OAU effort to constitute and deploy an enlarged NMOG as requested by the two parties. Mr. Salim stated that NMOG would continue to operate as an interim measure, pending the deployment of the neutral international force proposed by the parties.

25. I welcomed the decision of Mr. Salim that as an interim measure he would ensure that NMOG would continue to operate, pending a final determination by the Security Council on the establishment of the neutral international force, as well as on its role and responsibilities.

26. Taking into account the communications addressed to me by the President of Rwanda and the Secretary-General of OAU, and in pursuance of paragraph 11 of resolution 846 (1993), I decided to send a reconnaissance mission to Rwanda to make an assessment of the situation on the ground, in order to assist me in making recommendations to the Security Council. The mission, which is composed of officials from concerned departments, is led by Brigadier General Romeo A. Dallaire (Canada), Chief Military Observer of the United Nations Observer Mission Uganda-Rwanda (UNMUR). It arrived in Kigali on 19 August and is expected to stay there for up to two weeks in order to consult

with senior officials of the Government and with representatives of RPF on the implementation of the agreement within the framework of Security Council resolution 846 (1993). It will also meet with OAU representatives in Rwanda and with the members of its NMOG.

27. As I have indicated earlier, the Government of Rwanda and RPF have called for the establishment of a neutral international force, to facilitate the implementation of the provisions of the peace agreement. The reconnaissance mission will examine the possible functions of such a force and evaluate the human and financial resources that would be needed to carry them out. In addition to Rwanda, the senior officials of the mission will visit Dar-es-Salaam and Addis Ababa for consultations with the Government of the United Republic of Tanzania and with OAU, which acted as Facilitator and Coordinator, respectively, at the Arusha peace talks.

IV. OBSERVATIONS

28. The signing of the Arusha peace agreement has presented the Government of Rwanda and RPF with a political and democratic framework to resolve their conflict. The successful conclusion of the peace process will also provide the people of Rwanda with the opportunity to begin the reconstruction and rehabilitation of their country and would make it possible for nearly 1 million Rwandese refugees and internally displaced persons to return to their homes and to begin the arduous task of rebuilding their lives.

29. The Government of Rwanda and RPF should be commended for concluding the peace agreement. The United Republic of Tanzania's role as Facilitator was crucial to the success of the peace process as was that of the Secretary-General of OAU as Coordinator of the Arusha talks. A number of countries both within and outside the region, most notably Uganda, have also made positive contributions to the process. It is now incumbent on the Government of Rwanda and RPF to abide fully by the letter and spirit of the Arusha peace agreement.

30. On the basis of the findings of the reconnaissance mission, I shall submit a report to the Security Council regarding the contribution the United Nations could make to facilitate the implementation of the peace agreement.

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REPORT PURSUANT TO PARAGRAPH 5 OF SECURITY COUNCIL RESOLUTION 837 (1993) ON THE INVESTIGATION INTO THE 5 JUNE 1993 ATTACK ON UNITED NATIONS FORCES IN SOMALIA CONDUCTED ON BEHALF OF THE SECRETARY-GENERAL

1. In its resolution 837 (1993) of 6 June 1993, the Security Council reaffirmed, among other things, the authority of the Secretary-General to secure the investigation of the actions of those responsible for the armed attacks on 5 June 1993 on United Nations peace-keepers in Mogadishu, including those responsible for publicly inciting such attacks. The Council also requested the Secretary-General to report on the implementation of the resolution.

2. On 14 and 18 June 1993, the Secretary-General presented to the Council reports on actions relating to the 5 June and 12/13 June 1993 incidents in Mogadishu. The Secretary-General informed the Council that a more comprehensive investigation of the 5 June 1993 incident was being undertaken.

3. An independent expert, Professor Tom Farer of the American University, Washington, was engaged to carry out the investigation. On 12 August 1993, Professor Farer submitted his report to the Secretariat. The executive summary of the report is contained in the annex to the present document. The full report, together with its annexes, is available in English only for consultation in the Office of the Under-Secretary-General for Peace-keeping Operations (room S-3727).

Annex

Report of an investigation into the 5 June 1993 attack on United Nations forces in Somalia by Professor Tom Farer

1. On 5 June 1993, 24 soldiers serving in Somalia under the United Nations flag were killed in a series of attacks on Pakistani units that began without warning at about 0930 hours and continued relentlessly until the late afternoon. An additional 56 Pakistani soldiers were wounded, of whom 11 were crippled for life. The attacks occurred in the southern sector of Mogadishu, an area the Somali National Alliance (SNA), a political faction led by General Mohamed Farah Hassan Aidid, had long dominated. A number of those killed and wounded were distributing food to Somali citizens at the time they were assaulted. Others were returning from participation in the inspection of an authorized weapons storage site. Still others were ambushed attempting to rescue those initially attacked and to evacuate the wounded, some of whom were bleeding to death on 21 October Road, the scene of the main assault.

2. In a unanimous response, the Security Council adopted resolution 837 (1993) in which the Council reaffirmed the Secretary-General's authority "to secure the investigation of [the] actions [of the responsible parties] and their arrest and detention for prosecution, trial and punishment" and requested the Secretary-General "urgently to inquire into the incident, with particular emphasis on the role of those faction leaders involved.

3. Shortly thereafter, Admiral Jonathan Howe, the Special Representative of the Secretary-General in Somalia, asked me to assume principal responsibility for conducting that inquiry. I accepted the proposal of the Special Representative of the Secretary-General on the basis of one critical understanding: I would have full freedom to conduct an inquiry that was both impartial and as complete as time and the difficult security situation in Mogadishu allowed. The present report 1/ is the result of an investigation carried out with the assistance of lawyers on the staff of the United Nations Operation in Somalia (UNOSOM II) and members of the United Nations Office of Legal Affairs. I and my colleagues began this inquiry without any presumptions concerning premeditation or responsibility. We have laboured to accumulate all available evidence and have been united in our determination to follow that evidence wherever it might lead.

4. Paragraph 5 of Security Council resolution 837 (1993) contemplates the prosecution, trial and punishment of those responsible for attacks on UNOSOM II personnel. It does not, however, designate the tribunal before which the evidence gathered by the investigation should be presented; nor does it identify the applicable system or systems of law. Presumably the Council wished to postpone that decision pending completion of the investigation. In doing so, however, it left the investigators in a somewhat anomalous position, for the relevance of facts is a function of the legally defined elements of a crime. Without some appreciation of the crimes to be charged, investigators will find it difficult to establish rational limits to their inquiries.

5. Precisely in order to establish some limits, my colleagues and I decided to look to one national legal system and to international law for rules of criminal

responsibility relevant to the events of 5 June and succeeding incidents. The State with the most indisputable claim under generally recognized jurisdictional principles to have its laws apply is Somalia, since the events occurred there and most, if not all, of the prospective defendants are Somali nationals. Under Somali law, the evidence produced to date could give rise to a variety of charges under the 1962 Somali Penal Code, which has never been revoked. The charges would fall within one or more of the following broad categories: crimes by individuals against the public administration; crimes against public order; crimes endangering public safety by force; and crimes against the life and safety of the individual. Persons who planned or executed the attacks of 5 June would be guilty of at least 10 specific crimes within these categories, crimes ranging from "force or threats to a political, administrative or judicial body" to "carnage", "murder" and "seizure of a person".

6. With respect to international law, under the Nürnberg Principles, applied by the Allied Powers after World War II and subsequently reaffirmed by a unanimous General Assembly, individuals are subject to penal sanctions for conspiracy to commit and the commission of crimes against peace, crimes against humanity and violations of international humanitarian law. As originally defined to fit the circumstances of the World War's atrocities, the crimes implied authors acting in the name of some sort of public authority. But in the years since Nürnberg, the emergence of internationally protected human rights, together with exponential growth in the interdependence of societies and in the vulnerability of public interests to conspiracies by private actors, has required an extension of international criminal law to include them. Thus private persons who attack international commercial aircraft or conspire to exterminate some ethnic group (i.e. to commit genocide) are international criminals even if they are unconnected with any Government.

7. No act could by its very character more perfectly exemplify an international crime than the use of force against United Nations soldiers to prevent them from carrying out their responsibilities. Such use of force is a plain challenge to the ability of the United Nations to maintain international peace and security and hence to that minimum order on which all other collective human interests depend. Hence, in order to find that an international crime was committed in the instant case, it is unnecessary to decide whether the persons who organized, planned, approved or executed the attack of 5 June constituted a de facto authority in a part of Somalia or simply a group of private persons intent on frustrating performance of a Security Council mandate.

8. The one other clearly premeditated action against the United Nations in Somalia that occurred between 5 June and the conclusion of this inquiry was the 13 June attack on the Kilometer Four strong point in south Mogadishu, which resulted in extensive casualties to Somali citizens. It appears possible that the assailants deliberately fired on civilians in order to produce bodies for the international media. At a minimum there is strongly persuasive evidence of an intention to draw defensive fire from United Nations positions that would inevitably result in such casualties. 2/ Under either hypothesis about what occurred, a tribunal could find a violation of principles of international humanitarian law.

9. Whether the case falls under the precise terms of the Geneva Conventions of 1949 is not determinative. It is not even important. The Conventions were

designed to cover inter-State wars and large-scale civil wars. But the principles they embody have a wider scope. Plainly a part of contemporary international customary law, they are applicable wherever political ends are sought through military means. No principle is more central to the humanitarian law of war than the obligation to respect the distinction between combatants and non-combatants. That principle is violated and criminal responsibility thereby incurred when organizations deliberately target civilians or when they use civilians as shields or otherwise demonstrate a wanton indifference to the protection of non-combatants. I believe that principle was violated on 13 June.

10. As we sought to identify the persons responsible particularly for the 5 June attacks, my colleagues and I accumulated and analysed both circumstantial and other forms of evidence bearing on the issues of opportunity, means and motive. As a practical precondition for illuminating the issues of means and opportunity, it was necessary to decide whether, as alleged by General Aidid, the virtually coincident attacks launched on 5 June could plausibly be read as the spontaneous response of Somalis in south Mogadishu to the shooting of a Somali national in front of Radio Mogadishu at about 0930 that morning. By themselves, the raw circumstantial facts render that claim implausible. 3/

11. On the morning of 5 June, Pakistani forces were attacked almost simultaneously in places scattered all across southern Mogadishu: at Brigade headquarters in the National Soccer Stadium, at two feeding stations and at several strong points, as well as at key points along streets connecting these places. But the principal assault fell on Pakistani troops at checkpoint 89 on 21 October Road. Various features of that assault testify powerfully to premeditation. One was the existence of what is known in standard infantry doctrine as a "killing zone". The zone is an area in which troops, narrowly confined by natural or man-made obstacles, are subjected to concentrated fire. A second was the nature of the obstacles in this case, namely sequential roadblocks, which were strengthened as the day progressed. A third telling feature of that assault was the firing discipline manifested by the attackers. For instance, initially all the assailants seemed to be located on the south side of the road. Gunmen who had positioned themselves on the north side remained hidden and silent until soft-sided trucks loaded with reinforcements entered the zone, at which point they opened a deadly crossfire.

12. Flank protection was another sign of careful planning. Pakistani units attempting to relieve the pressure at the heart of the killing zone by working their way around behind the elevated structures occupied by the assailants quickly ran up against waiting snipers who repulsed them. A fifth significant feature of the attack was the armament employed, including heavy machine-guns and anti-tank weapons (specifically rocket-propelled grenades (RPGs)). While AK-47s and other small arms are widely and readily available in all parts of the city, .50-calibre machine-guns and RPGs are not. Nor are the munitions they fire, which are, moreover, relatively heavy. Not only were such weapons employed, they were employed in and on the roof of the several multistory structures dotted around checkpoint 89 and so situated that accurate fire could be initiated as soon as substantial forces were in the killing zone.

13. A sixth feature was the assailants' sophisticated use of locations and camouflage: the shooters rarely exposed themselves; some appeared to flit from window to window; a number of the gun barrels that could be seen were covered

with a greenish gauze. A seventh and particularly significant feature of the incident was its duration: the gunmen were able to sustain a withering fire from heavy as well as light weapons from mid-morning to late afternoon, over five hours. At no point did the rate of fire indicate any shortage of ammunition. Yet the Pakistani company trapped at checkpoint 89 found itself running short of ammunition well before the end of the attack, even though it was carrying a full complement and, moreover, because it was pinned down and had difficulty identifying targets it maintained a much lower rate of fire. Only careful pre-attack stocking of the ambush site or a prearranged system for resupplying the Somali attackers can plausibly explain the amplitude of their munitions.

14. The combined weight of these elements by itself flattens the claim of a spontaneous attack. And in considering the weight of the circumstantial evidence, they must be added to the near simultaneous attacks occurring elsewhere in south Mogadishu. People suddenly driven by overwhelming emotions do not normally construct roadblocks at peculiarly appropriate places or shrewdly calculate the best points at which to place heavy machine-guns in order to block even armoured vehicles from relieving besieged troops. Yet this is precisely what occurred on 5 June.

15. The eloquent testimony of premeditation implicit in the raw facts of 5 June leads ineluctably to three questions:

(a) Who had foreknowledge of the movements of Pakistani contingents on 5 June?

(b) Who had the authority to deploy the gunmen required to carry out that day's assaults?

(c) Who had strong and rational incentives for the assault?

Who, in other words, had the opportunity, the means and the motive to perpetrate this crime? A large and complex body of evidence leads ineluctably to the conclusion not simply that General Aidid had the requisite means, motive and opportunity, but that he had that trinity uniquely.

16. With regard to opportunity, 4/ on the afternoon of 4 June, UNOSOM officers officially informed Mohamed Hassan Awale Qaibdid, one of General Aidid's closest associates, that designated weapons sites would be inspected on the following day. He responded by stating that the inspections must not be performed and that, if they were, it would lead to "war". On the morning of 5 June, another Aidid confidante, Mr. Osman Atto, openly conceded foreknowledge of the outbreak of violence. While no one testified that the General had been informed by Qaibdid, it is grossly implausible that a matter which Qaibdid deemed so full of consequence would not be reported immediately to the man who was Chairman of SNA and its military leader, who was in Mogadishu and who resided and conducted business in a compound that was only a few moments' drive away from Qaibdid's. Furthermore, the uniform experience of persons from both the official international and the non-governmental communities who have had to negotiate with SNA was that high SNA officials, including Mr. Atto, either could not or would not take decisions on matters of any consequence without submitting them to the General for his approval. To believe that in this instance he was not

informed and that his subordinates would have taken it upon themselves to start a war with the United Nations requires an exercise in wilful credulity.

17. Concerning means, 5/ on 5 June, General Aidid was the unchallenged political and military leader of the Habre Gidr clan, which was credited by UNOSOM intelligence with a readily deployable militia of some 500 men. Since clansmen of military age number in the many thousands, the clan is the principal focus of personal loyalty for Somalis and most Somali men have some experience in the handling at least of small arms, the numbers potentially deployable by the acknowledged leader of the clan was no doubt greater than the UNOSOM estimate of persons under arms. Estimates by UNOSOM officers of the minimum number of fighters required to carry out the ambushes of 5 June vary from under 50 to 200. Taking the highest of these estimates, it is clear that even if the forces immediately available to SNA were only half what the UNOSOM Force Command had estimated, they would still have provided General Aidid with more than sufficient means.

18. Like other militia, and consistent with the experience of UNOSOM from 5 June to this day, SNA had access to automatic rifles, hand grenades, light and heavy machine-guns and RPGs. In its largest acknowledged weapons storage site, SNA had huge stocks of ammunition, as well as recoilless rifles and other heavy weapons. Since the sites had been established voluntarily by the armed factions after the arrival of and without any prior audit by the Unified Task Force (UNITAF), UNOSOM officials had no basis for determining what proportion of weapons and ammunition originally held by the factions had been deposited in the sites. Moreover, since the sites were entirely under the control of the factions, they could move material in and out at will. Assuming that the one UNITAF audit, effected after the sites were established, was accurate, then the discrepancies between it and the 5 June audit report of the UNOSOM inspectors indicate that at least the SNA sites functioned more as convenient entrepôts for weapons than as their prisons.

19. With regard to motive, 6/ in the case of General Aidid, means and opportunity coincided with ample motive. Simply by being in place as the dominant military force in the country, UNOSOM reduced the influence of those political leaders, General Aidid eminent among them, who had hitherto disposed of substantial forces. While UNOSOM remained in place, guns would no longer trump all other sources of influence. And to the extent UNOSOM succeeded in substantially disarming the warlords, they could not look forward to playing their trump after UNOSOM departed. The weapons site inspections of 5 June were an important step in that disarmament process.

20. The General's influence also was threatened by UNOSOM's incipient effort to re-establish a formal judicial system and a neutral police force, i.e. a functioning system of justice. An official judicial system would undermine the de facto political order the General had imposed on south Mogadishu. In conjunction with disarmament, the new police force would, as it grew and consolidated, spell the end of informal systems of domination. In addition, a largely fortuitous conjuncture of events may have added subjective grievance to the objective conflict between the General's interests and UNOSOM's mandate.

21. General Aidid could rationally have concluded that, by demonstrating his ability to turn Mogadishu into a zone of grave insecurity, he could force UNOSOM

to alter its programmes so that they were compatible with his bid to play a, and probably the, leading political role in a reconstituted Somalia. He could have hoped, at a minimum, to force UNOSOM to negotiate every programme with him as if he were the formal independent political authority over half the country's capital and other territory where the Habre Gidr clan or its allies predominated. And, as a maximum goal, he could rationally have hoped so to increase the costs of the United Nations operation particularly for certain key national contingents as to trigger the operation's premature termination.

22. The corresponding risks may well have appeared acceptable. His experience with UNOSOM I could have encouraged miscalculation. Operating with only 500 troops shackled by the rules of engagement hitherto deemed appropriate for a Chapter VI mandate, UNOSOM I had been passive in the face of extortionate activities by SNA and other militia. Aidid's calculations of risk could also have been influenced by the passivity of United Nations forces in the former Yugoslavia. The General is, after all, a well-travelled man familiar with international relations. He attended military academies in Italy and the former Soviet Union and was for some years the Somali Ambassador to India.

23. The circumstantial evidence of means, opportunity and motive, powerful in itself, does not stand alone. It is buttressed by the testimony of a credible witness who appears to have had direct access to the General both before and after 5 June. The witness testifies to being present when General Aidid congratulated members of SNA for the 5 June ambush. If even that was not enough, the case against the General is further reinforced, indeed would appear to be clinched, by an essentially self-authenticating document, a memorandum addressed to the General (and to his chief of security, Mr. Qaibdid) that summarizes the results of the interrogation of one of the five Pakistani soldiers taken prisoner on 5 June and subsequently turned over to Italian authorities by SNA officials. The information in this document, retrieved by UNOSOM soldiers from the house used as an office and residence by Mr. Qaibdid, is relevant only to the conduct of future military operations. Hence it strongly implies belief by the senior officials of SNA that they were at war with UNOSOM II. That belief would be baseless unless SNA had launched the 5 June assault.

CONCLUSIONS

24. The claim that General Mohamed Farah Hassan Aidid authorized the 5 June attack on Pakistani forces serving under the United Nations flag and that the attack was executed by elements of the political faction known as SNA is supported by clear and convincing evidence.

25. The attack of 5 June violated multiple provisions of the 1962 Somali Penal Code, which has never been repealed. It also constitutes a violation of international law and thus makes General Aidid and his senior colleagues liable to prosecution before an international tribunal or the criminal courts of any State.

26. The central principle of international humanitarian law - the obligation to respect the distinction between combatants and non-combatants - is violated and criminal responsibility thereby incurred when individuals or organizations use

civilians as shields for military operations or otherwise demonstrate a wanton indifference to the protection of non-combatants. There is sufficient evidence to make out a prima facie case that the 13 June attack on the Pakistani strong point at the Kilometer Four roundabout in south Mogadishu was consciously designed by persons associated with SNA to cause the wounding or killing of non-combatants.

Notes

1/ The complete report is available for consultation in the Office of the Under-Secretary-General for Peace-keeping Operations.

2/ For a more detailed analysis of the evidence, see pp. 90-96 of the complete report.

3/ For a more detailed discussion, see pp. 21-41 of the complete report.

4/ For a more detailed discussion, see pp. 49-71 of the complete report.

5/ For a more detailed discussion, see pp. 42-49 of the complete report.

6/ For a more detailed discussion, see pp. 71-90 of the complete report.

UNITED
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25 August 1993

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REPORT OF THE SECRETARY-GENERAL CONCERNING HAITI

1. The Governors Island Agreement, signed by the President of the Republic of Haiti, Reverend Father Jean-Bertrand Aristide, and the Commander-in-Chief of the Haitian Armed Forces, General Raoul Cedras, provides in paragraph 5 for "assistance for modernizing the Armed Forces of Haiti and establishing a new police force with the presence of United Nations personnel in these fields" (S/26063, para. 5).

2. As I indicated in paragraph 14 of my report to the Security Council dated 12 July 1993 (S/26063), it was my intention, following consultations with the Constitutional Government of Haiti, to put forward recommendations to the Council concerning United Nations assistance in the modernization of the Armed Forces as well as in the establishment of a new police force. In his letter to me dated 15 July 1993 (S/26085), the President of the Security Council informed me of the Council's readiness to take urgent action in this regard upon the presentation of my proposals. Pursuant to the receipt of President Aristide's letter of 24 July 1993 (S/26180, annex), I am now in a position to make the pertinent recommendations for the consideration of the Security Council. These recommendations, which are set forth below, are based on advice from Mr. Dante Caputo, the Special Envoy of the Secretary-General of the United Nations and the Secretary-General of the Organization of American States (OAS), who has discussed them with the Constitutional Government. The "Friends of the Secretary-General for Haiti", namely Canada, France, the United States of America and Venezuela, have also made a valuable contribution in defining the recommendations in the present report.

Assistance in the police sector

3. Although the Haitian Constitution provides for a police force separate from the Armed Forces, at the present time the responsibilities of the Armed Forces of Haiti include both military and police functions. In accordance with paragraph 7 of the Governors Island Agreement, and paragraph 4 of the New York Pact of 16 July 1993 (see S/26297, annex), a law is to be adopted, on the basis of an emergency procedure, to establish a new police force. Paragraph 5 of the Governors Island Agreement calls for the presence of United Nations personnel to assist in its establishment. Pending the creation of the new force, President Aristide's letter of 24 July 1993 requested the United Nations to provide advice and assistance for the purpose of improving the functioning of the existing security forces, with particular reference to respect for human rights.

4. It is recalled that, at the request of President Aristide, an International Civilian Mission jointly staffed and funded by the United Nations and OAS was established in Haiti in February 1993 with the task of verifying respect for human rights and the eradication of all forms of violence. The civilian police personnel whose deployment in Haiti is recommended in accordance with the arrangements outlined below would benefit from the experience and information already obtained by the Mission in Haiti and would coordinate their activities as appropriate with that Mission, whose strength has now reached nearly 200 deployed throughout Haiti.

5. Pending adoption of the necessary legislation for the creation of the new police force, including the appointment of a Commander-in-Chief of the Police by the President of Haiti, in accordance with the procedure set up in article 141 of the Haitian Constitution, United Nations civilian police would assist the Government in monitoring the activities of those members of the Armed Forces who are currently carrying out police functions. These civilian police would be known as United Nations police monitors. They would establish liaison at all levels of the Haitian police force in order to provide guidance and advice, monitor the conduct of police operations and ensure that legal requirements are met and police actions correctly executed.

6. The police monitors would strengthen the international presence in Haiti, demonstrating the international community's commitment to the restoration of democracy in that country. Their deployment would also help to discourage civil unrest during the delicate process of implementing the Governors Island Agreement and the political accords contained in the New York Pact. This process has already begun and their deployment should start immediately after the new Prime Minister takes office (see S/26180, enclosure).

7. In consultation with the Government of Haiti, the United Nations would, at a later stage, assist in the establishment of a Police Academy and in the training of a new generation of police officers there. As police officers of the new civilian police organization assume their responsibilities, the United Nations police monitors would be progressively phased out.

8. For the purposes described above, it is estimated that a total of 567 United Nations police monitors will be required.

9. In order to perform their duties, the United Nations police monitors would require access to all information on the deployment of all personnel charged with civilian police functions, including control of civil disturbances, and would need to enjoy complete freedom of movement throughout Haitian territory.

10. The United Nations police monitors would also be entitled to hold discussions freely and confidentially with any person or group, including members of the Armed Forces performing police functions, of the new Haitian police force, of the Ministry of Justice and of other relevant components of the Haitian judicial system and to collect any information deemed relevant.

11. The United Nations police monitors would be entitled to submit recommendations regarding particular cases or situations and to make inquiries with the appropriate authorities regarding those recommendations. They would also institute a programme of information and education aimed at explaining the

tasks entrusted to them and promoting an understanding of, and respect for, the new civilian police force.

Assistance for the modernization of the Armed Forces

12. As proposed in President Aristide's letter of 24 July 1993, it is further recommended that the United Nations provide assistance for a military modernization programme in the form of training teams and a unit of construction engineers. The training teams would consist of 12 trainers per team, with an average of 60 trainers being present in Haiti at any given time. The teams would be rotated frequently as training in one subject was completed and training in another began.

13. The teams would provide training in non-lethal skills for officers and non-commissioned officers, at the general staff, regional and unit levels. The programme would be phased to meet training requirements determined through coordination between the Chief of the United Nations Mission and the Government of Haiti. Its purpose would be to train Haitian soldiers in skills relevant to what will become their primary missions in accordance with article 266 of the Haitian Constitution as responsibility for internal security is transferred from the Armed Forces to the new civilian police force. It would thus include the development of military engineering capability (e.g. road-building, well-drilling) and skills in areas such as disaster relief, search and rescue, and surveillance of borders and coastal waters.

14. As a foundation for this training, the United Nations would work with the Haitian Government to develop a modern code of conduct, reform the military justice system, and improve the effectiveness of the Inspector General of the Armed Forces.

15. In addition to the training programme, a military construction unit, with a strength of approximately 500 all ranks, would be deployed to work with the Haitian military to carry out construction projects relevant to the modernization of the military and of benefit to the civilian population. These projects have been designed, in consultation with the Haitian Government, to give military personnel on-the-job training in relevant construction and engineering skills. They include:

(a) The construction of new barracks;

(b) The conversion to civilian use of military facilities no longer required by the Armed Forces in execution of their newly defined mission;

(c) The renovation of medical facilities;

(d) The repair of roads and drilling of wells in rural areas.

These projects would be completed within six to eight months. Additional projects might be developed if such was the wish of the Haitian Government.

United Nations Mission in Haiti

16. The tasks described above would be carried by the mission to be known as "United Nations Mission in Haiti". This Mission would be under the command of the United Nations, vested in the Secretary-General under the authority of the Security Council. It would be headed in the field by a Special Representative of the Secretary-General, namely the Special Envoy who already oversees the activities of the International Civilian Mission and who would coordinate the activities of the two missions. The Special Representative would report to the Secretary-General on the United Nations Mission in Haiti. The civilian police component would be headed by a Police Commissioner reporting to the Special Representative. The military component, consisting of military trainers and a unit of construction engineers, would be headed by a Commander who would also report to the Special Representative.

17. As regards the concept of operations, the United Nations Mission in Haiti would establish its headquarters in Port-au-Prince and sub-headquarters in different parts of the country as required for its operations. In order to carry out its functions, the Mission would, as already noted, need to have freedom of movement and communication and enjoy the other rights that would be necessary for the performance of its task. Its personnel would also have to be granted all relevant privileges and immunities under the Convention on the Privileges and Immunities of the United Nations. Should the Security Council decide to establish the Mission, it would be my intention to initiate consultations with a view to concluding a Status-of-Mission Agreement along the usual lines.

18. The personnel for the civilian police and military components of the Mission would be provided by the Governments of Member States at the request of the Secretary-General. They would use their national uniforms, with United Nations headgear and accoutrements, and would carry side-arms for their own protection.

19. I shall, as soon as possible, submit, in an addendum to the present report, a statement on the financial and administrative implications of the Mission described above, the costs of which are provisionally estimated at approximately US$ 37 million for an initial period of six months.

20. On the basis of the present report, the Security Council is recommended to authorize the establishment and immediate dispatch, as soon as the conditions set up in the Governors Island Agreement are met, of the United Nations Mission in Haiti for an initial period of six months. The duration of the Mission would be subject to periodic review, in the light of the progress achieved in the restoration of democracy in Haiti.

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LETTER DATED 20 AUGUST 1993 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you herewith information relating to the impact of the economic embargo on the health of Iraqi citizens, updated for July 1993.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

93-46708 (E) 260893 260893

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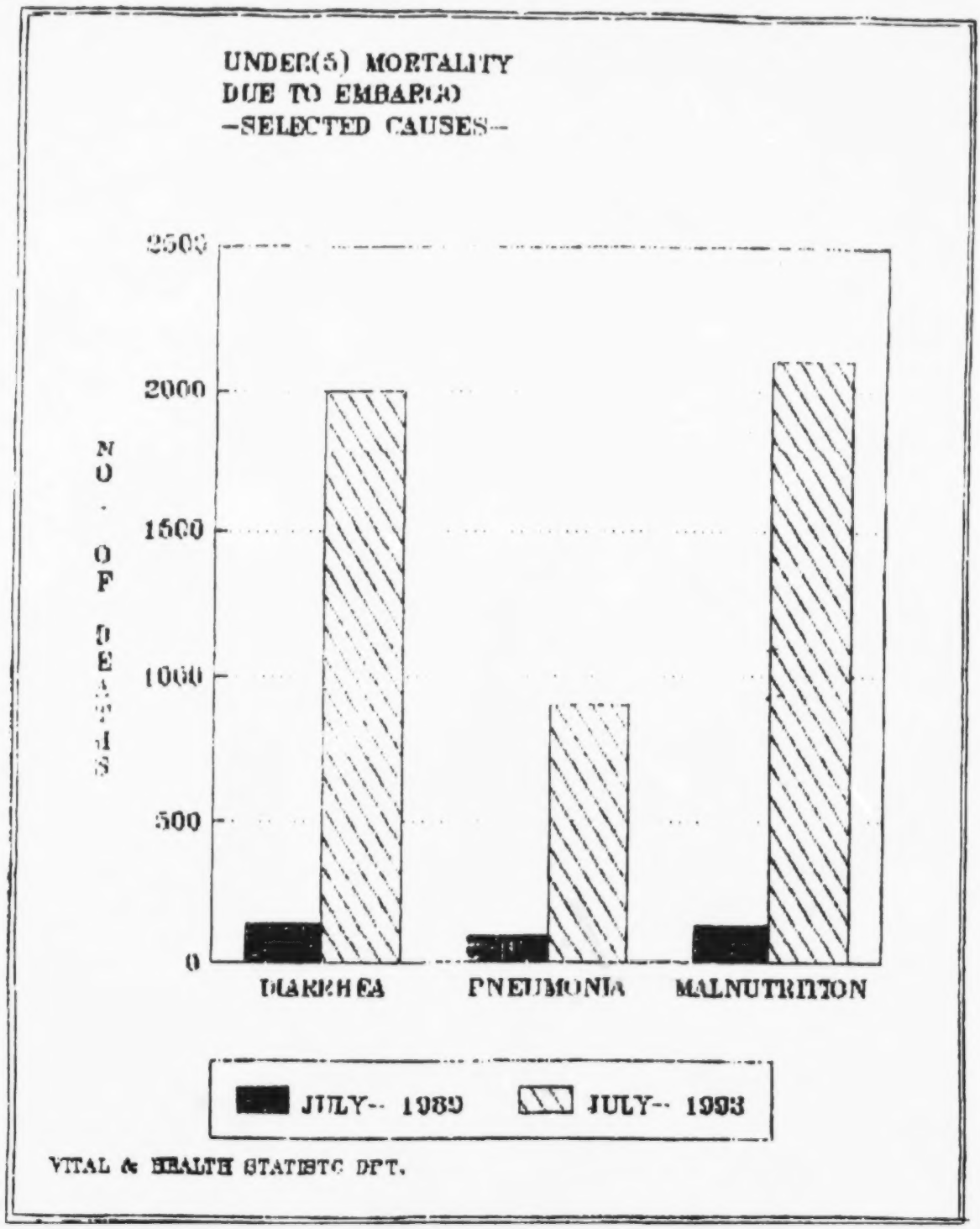
Annex

Under-5 mortality

Period	Condition					
	Diarrhoea		Pneumonia		Malnutrition	
	Deaths	Rate of increase	Deaths	Rate of increase	Deaths	Rate of increase
July 1989	142	-	98	-	138	-
July 1993	2001	1309%	901	819.3%	2102	1423%

Over-50 mortality

Period	Condition					
	Hypertension		Diabetes		Malignant neoplasm	
	Deaths	Rate of increase	Deaths	Rate of increase	Deaths	Rate of increase
July 1989	122	-	62	-	246	-
July 1993	272	123%	146	135.5%	699	184%


UNDER(5) MORTALITY
DUE TO EMBARGO
-SELECTED CAUSES-
2500
2000
1500
1000
500
0
NO. OF DEATHS
DIARRHEA
PNEUMONIA
MALNUTRITION
JULY-- 1989
JULY-- 1993
VITAL & HEALTH STATISTC DPT.

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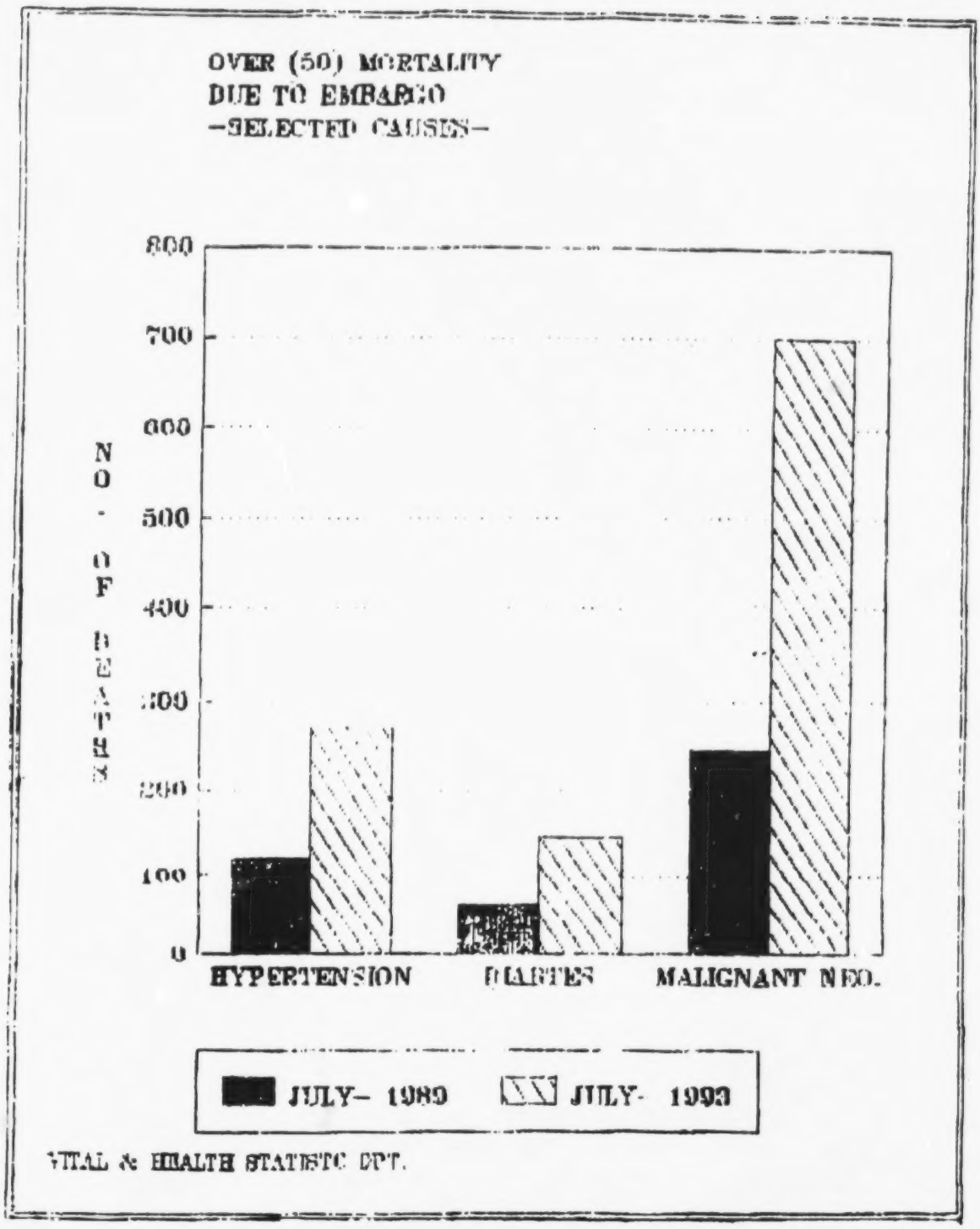
OVER (50) MORTALITY
DUE TO EMBARGO
-SELECTED CAUSES-
NO. OF DEATHS
800
700
600
500
400
300
200
100
0
HYPERTENSION
DIABETES
MALIGNANT NEO.
JULY- 1989
JULY- 1993
VITAL & HEALTH STATISTC DPT.